



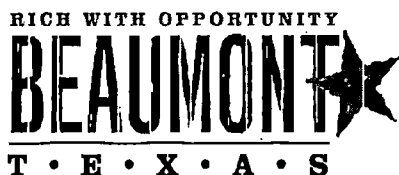
**REGULAR MEETING OF THE CITY COUNCIL  
COUNCIL CHAMBERS JULY 28, 2015 1:30 P.M.**

**CONSENT AGENDA**

- \* Approval of minutes – July 21, 2015
- \* Confirmation of committee appointments

Shedrick Evans would be appointed to the Community Development Advisory Committee. The term would commence July 28, 2015 and expire July 27, 2015. (Councilmember Robin Mouton)

- A) Authorize the City Manager to enter into an agreement with Lamar University regarding funding to enhance the programming of the educational access channel
- B) Authorize the City Manager to apply for and receive funding through the Texas State Library and Archives Commission
- C) Authorize the settlement of the lawsuit styled Cathy Taylor vs. City of Beaumont; Cause No. 123,753
- D) Authorize the settlement of the property claim of Fiberlight, LLC
- E) Adopt municipal health care provider participation program model rules and procedures
- F) Authorize the settlement of the lawsuit styled Bob Shaw d/b/a Bob Shaw Consulting Engineers vs. City of Beaumont; Cause No. B-195,144



## City Council Agenda Item

**TO:** City Council

**FROM:** Kyle Hayes, City Manager

**PREPARED BY:** Bart Bartkowiak, Chief Technology Officer

**MEETING DATE:** July 28, 2015

**REQUESTED ACTION:** Council consider a resolution authorizing the City Manager to enter into an agreement with Lamar University regarding funding to enhance the programming of the educational access channel.

### BACKGROUND

In 2005, the Texas Legislature passed legislation enacting a new Chapter 66 to the Texas Utilities Code, authorizing a state-issued certificate of franchise authority for cable and video providers. Within Chapter 66, it specifies that the operation of public, educational and governmental (PEG) access channels for noncommercial programming shall be the responsibility of the municipality receiving the benefit of such channel.

Currently, the City of Beaumont operates the governmental PEG channel and Lamar University operates the educational PEG channel under agreement with the City of Beaumont.

Lamar University is asking for funding to enhance the programming of the educational PEG channel. The three projects are:

1. Broadcast Journalism Emphasis: \$67,901.65
  - a. This project aims to improve content by providing recording equipment to journalism students.
2. LUTV-7 Studio Upgrade: \$112,868.00
  - a. This project will purchase additional equipment for the news studio which allows for more functionality.
3. Film/Video Emphasis: \$82,450.30
  - a. This project aims to improve content by providing Super 8mm cameras and equipment to journalism students.

The City of Beaumont agrees to reimburse Lamar University up to \$263,219.95 for the purposes of these projects. The reimbursement will be made from monies received from Time Warner that are restricted for capital expenditures for public and governmental programming.

**FUNDING SOURCE**

Public Education Government Programming (PEG) Fund.

**RECOMMENDATION**

Approval of resolution.

RESOLUTION NO.

BE IT RESOLVED BY THE CITY COUNCIL OF THE

CITY OF BEAUMONT:

THAT the City Manager be and he is hereby authorized to enter into an agreement with Lamar University in a reimbursable amount not to exceed \$263,219.95 to be used to enhance the programming of the educational PEG channel.

PASSED BY THE CITY COUNCIL of the City of Beaumont this the 28th day of July, 2015.

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- Mayor Becky Ames -

# BEAUMONT

— T E X A S —

**TO:** City Council

**FROM:** Kyle Hayes, City Manager

**PREPARED BY:** Bart Bartkowiak, Chief Technology Officer

**MEETING DATE:** July 28, 2015

**REQUESTED ACTION:** Council consider a resolution authorizing the City Manager to apply for and receive funding in the amount of \$18,000 through the Texas State Library and Archives Commission for library programming.

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## **BACKGROUND**

The Texas State Library and Archives Commission is offering \$12,000 in paid training to attend workshops for select libraries in Texas along with \$6,000 in resource funding to establish children related programming at the Beaumont Public Libraries.

## **RECOMMENDATION**

Approval of resolution.

RESOLUTION NO.

BE IT RESOLVED BY THE CITY COUNCIL OF THE

CITY OF BEAUMONT:

THAT the City Manager be and he is hereby authorized to execute all documents necessary to apply for and accept education and funding through the Texas State Library and Archives Commission in the amount of \$18,000 to establish Family Place programs at the Beaumont Public Libraries.

PASSED BY THE CITY COUNCIL of the City of Beaumont this the 28th day of July, 2015.

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- Mayor Becky Ames -

# BEAUMONT

— T E X A S —

**TO:** City Council

**FROM:** Kyle Hayes, City Manager

**PREPARED BY:** Tyrone E. Cooper, City Attorney

**MEETING DATE:** July 28, 2015

**REQUESTED ACTION:** Council consider a resolution authorizing the settlement of the lawsuit styled Cathy Taylor vs. City of Beaumont; Cause No. 123,753.

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## BACKGROUND

The lawsuit styled Cathy Taylor vs. City of Beaumont; Cause No. 123,753 was presented and discussed in Executive Session held on July 21, 2015. The City Attorney is requesting authority to settle this suit in the amount of \$12,500.

## FUNDING SOURCE

General Liability Fund.

## RECOMMENDATION

Approval of resolution.

RESOLUTION NO.

WHEREAS, the lawsuit styled Cathy Taylor vs. City of Beaumont; Cause No. 123,753 was discussed in Executive Session properly called and held Tuesday, July 21, 2015; and,

WHEREAS, the City Attorney is requesting authority to settle this lawsuit;

NOW, THEREFORE, BE IT RESOLVED BY THE

CITY COUNCIL OF THE CITY OF BEAUMONT:

THAT the statements and findings set out in the preamble to this resolution are hereby, in all things, approved and adopted; and,

THAT the City Attorney be, and he is hereby, authorized to settle the lawsuit styled Cathy Taylor vs. City of Beaumont; Cause No. 123,753 for the sum of Twelve Thousand Five Hundred and XX/100 Dollars (\$12,500.00); and,

BE IT FURTHER RESOLVED THAT the City Manager be and he is hereby authorized to execute all documents related to settlement of the lawsuit.

PASSED BY THE CITY COUNCIL of the City of Beaumont this the 28th day of July, 2015.

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- Mayor Becky Ames -



# **BEAUMONT**

— T E X A S —

**TO:** City Council

**FROM:** Kyle Hayes, City Manager

**PREPARED BY:** Tyrone E. Cooper, City Attorney

**MEETING DATE:** July 28, 2015

**REQUESTED ACTION:** Council consider a resolution authorizing the settlement of the property claim of Fiberlight, LLC.

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## **BACKGROUND**

This matter was presented and discussed in Executive Session held on July 21, 2015. The City Attorney is requesting authority to settle the property claim in the amount of \$12,015.88.

## **FUNDING SOURCE**

General Liability Fund.

## **RECOMMENDATION**

Approval of resolution.

RESOLUTION NO.

WHEREAS, the claim of Fiberlight, LLC has been discussed in an Executive Session properly called and held Tuesday, July 21, 2015; and,

WHEREAS, the City Attorney is requesting authority to settle this claim;

NOW, THEREFORE, BE IT RESOLVED BY THE

CITY COUNCIL OF THE CITY OF BEAUMONT:

THAT the statements and findings set out in the preamble to this resolution are hereby, in all things, approved and adopted; and,

THAT the City Attorney be and he is hereby authorized to settle the property claim of Fiberlight, LLC and pay for the repair of damages in the amount of Twelve Thousand Fifteen and 88/100 Dollars (\$12,015.88); and,

BE IT FURTHER RESOLVED THAT the City Manager be and he is hereby authorized to execute all documents related to settlement of the claim.

PASSED BY THE CITY COUNCIL of the City of Beaumont this the 28th day of July, 2015.

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- Mayor Becky Ames -

# BEAUMONT

— T E X A S —

**TO:** City Council

**FROM:** Kyle Hayes, City Manager

**PREPARED BY:** Tyrone E. Cooper, City Attorney

**MEETING DATE:** July 28, 2015

**REQUESTED ACTION:** Council consider a resolution adopting municipal health care provider participation program model rules and procedures.

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## BACKGROUND

On June 9, 2015, the City Council authorized the City's participation in a municipal health care provider participation program to support the payment of Medicaid supplemental hospital payments to Safety-Net Hospitals in the City. At the same time, the City Council authorized the execution of indigent care affiliation agreements with Baptist Hospitals of Southeast Texas and Christus Hospital. To further facilitate participation in this program, it is necessary for the City of Beaumont to approve implementing requirements of the City of Beaumont's participation in a municipal health care provider participation program. These requirements provide for, among other things, model rules and procedures, the collection of a mandatory payment from each institutional health care provider participating in the program, the holding of public hearings pertaining to the amount of the mandatory payment, as well as designating a depository for the mandatory payments received. A copy of the model rules and procedures is attached for your consideration.

## FUNDING SOURCE

Local Safety-Net Hospitals (Hospital Affiliates) will provide funds for the mandatory payment to be held and accounted for in the local provider participation fund.

## RECOMMENDATION

Approval of resolution.

**Resolution Implementing Requirements of the City of Beaumont's Participation in a  
Municipal Health Care Provider Participation Program**

WHEREAS, the Texas Legislature enacted by unanimous consent Senate Bill 1387, which added Chapter 295 to the Health and Safety Code and which went into effect immediately upon being signed by the Governor;

WHEREAS, pursuant to new Section 295.003 of the Health and Safety Code, the governing body of a municipality may by order authorize the municipality to participate in a municipal health care provider participation program and establish a Local Provider Participation Fund;

WHEREAS, the purpose of participation in a municipal health care provider participation program is to help local providers gain access to the Texas Transformation & Quality Improvement 1115 Medicaid Waiver;

WHEREAS, the funding for the Local Provider Participation Fund is generated from revenue from a mandatory payment that may be required by the municipality from an institutional health care provider to fund certain intergovernmental transfers and indigent care programs;

WHEREAS, pursuant to Section 295.003 of the Health and Safety Code, the City Council of the City of Beaumont on June 9, 2015, authorized the municipality to participate in a municipal health care provider participation program and establish a Local Provider Participation Fund;

WHEREAS, the purpose of participation in a municipal health care provider participation program is to generate revenue from a mandatory payment that may be required by the municipality from an institutional health care provider to fund certain intergovernmental transfers and indigent care programs;

WHEREAS, pursuant to Section 295.052 of the Health and Safety Code, the City Council of the City of Beaumont on July 9, 2015, authorized the municipality to collect a mandatory payment from each institutional health care provider located in the City Beaumont;

WHEREAS, pursuant to Section 295.053 of the Health and Safety Code, the governing body of a municipality that collects a mandatory payment may adopt rules relating to the administration of the mandatory payment;

WHEREAS, pursuant to Section 295.054 of the Health and Safety Code, the governing body of a municipality that collects a mandatory payment must require each institutional health care provider to submit to the municipality a copy of any financial and utilization data required by and reported to the Department of State Health Services under Texas Health & Safety Code Sections 311.032 and 311.033 and any rules adopted by the executive commissioner of the Health and Human Services Commission to implement those sections;

WHEREAS, pursuant to Section 295.102 of the Health and Safety Code, the governing body of a municipality that collects a mandatory payment must designate one or more banks located in the municipality as the depository for mandatory payments received by the municipality; and

WHEREAS, pursuant to Section 295.151 of the Health and Safety Code, the governing body of a municipality that collects a mandatory payment must set the amount of the mandatory payment;

NOW THEREFORE, BE IT ORDERED that the City Council of the City of Beaumont:

1. Adopts the Municipal Health Care Participation Program Model Rules and Procedures attached to this ORDER and identified as Exhibit A Municipal Health Care Participation Program Model Rules and Procedures;
2. Requires each institutional health care provider to submit to the City of Beaumont a copy of any financial and utilization data required by and reported to the Department of State Health Services under Texas Health & Safety Code Sections 311.032 and 311.033 and any rules adopted by the executive commissioner of the Health and Human Services Commission to implement those sections;
3. Designates Wells Fargo Bank, N.A., located at 6250 Delaware, Beaumont, Texas, 77706, as the depository for mandatory payments received by the City of Beaumont;
4. Sets the amount of the mandatory payment for the fiscal year ending in 2015 as  percent of the net patient revenue of an institutional health care provider located in the City of Beaumont; and
5. Authorizes the City Council of the City of Beaumont to take all other actions necessary to meet the requirements of Chapter 295.

Passed and approved this 28<sup>th</sup> day of July, 2015.

\_\_\_\_\_  
Becky Ames, Mayor

Attest:

\_\_\_\_\_  
Tina Broussard, City Clerk

Approved as to form:

\_\_\_\_\_  
Tyrone E. Cooper, City Attorney

# **MUNICIPAL HEALTH CARE PROVIDER PARTICIPATION PROGRAM MODEL RULES AND PROCEDURES**

## **General Provisions**

**Rule 1. Definitions.** In these rules and procedures:

(a) "Mandatory payment" means a mandatory payment authorized under Subtitle D of Title 4 of the Texas Health & Safety Code.

(b) "Institutional health care provider" means a nonpublic hospital that provides inpatient hospital services.

(c) "Paying hospital" means an institutional health care provider required to make a mandatory payment.

(d) "Program" means a municipal health care provider participation program authorized under Subtitle D of Title 4 of the Texas Health & Safety Code.

**Rule 2. Municipal Health Care Provider Participation Program; Participation in Program.**

(a) A municipal health care provider participation program authorizes a municipality to collect a mandatory payment from each institutional health care provider located in the municipality to be deposited in a local provider participation fund established by the municipality. Money in the local provider participation fund may be used by the municipality to fund certain intergovernmental transfers and indigent care programs as provided by these rules and procedures.

(b) The governing body of a municipality may adopt an order authorizing a municipality to participate in the program, subject to the limitations provided by these rules and procedures.

(c) To the extent any provision or procedure under Subtitle D of Title 4 of the Texas Health & Safety Code causes a mandatory payment to be ineligible for federal matching funds, the municipality may provide by rule for an alternative provision or procedure that conforms to the requirements of the federal Centers for Medicare and Medicaid Services.

## **Powers and Duties of Governing Body of Municipality**

**Rule 3. Limitation on Authority to Require Mandatory Payment.** The municipality may require a mandatory payment from an institutional health care provider only in the manner provided in these rules and procedures.

**Rule 4. Majority Vote Required Prior to Mandatory Payment.** The municipality may not collect a mandatory payment without an affirmative vote of a majority of the members of the governing body.

**Rule 5. Institutional Health Care Provider Reporting; Inspection of Records.**

(a) The municipality shall require each institutional health care provider to submit to the municipality a copy of any financial and utilization data required by and

reported to the Department of State Health Services under Texas Health & Safety Code Sections 311.032 and 311.033 and any rules adopted by the executive commissioner of the Health and Human Services Commission to implement those sections.

(b) The municipality may inspect the records of an institutional health care provider to the extent necessary to ensure that the provider has submitted all required data under this Rule.

### **General Financing Provisions**

#### **Rule 6. Hearing.**

(a) Each year, the governing body of the municipality shall hold a public hearing on the amounts of any mandatory payments that the governing body intends to require during the year and how the revenue derived from those payments is to be spent.

(b) Not later than the 10th day before the date of the hearing required under Rule 6(a), the governing body of the municipality shall publish notice of the hearing in a newspaper of general circulation in the municipality.

(c) A representative of an institutional health care provider that is or may be designated as a paying hospital is entitled to appear at the time and place designated in the public notice and to be heard regarding any matter related to the mandatory payments.

#### **Rule 7. Depository.**

(a) The municipality shall designate one or more banks located in the municipality as the depository for mandatory payments received by the municipality. A bank designated as a depository serves for two years or until a successor is designated.

(b) All income received by a municipality under these rules and procedures, including the revenue from mandatory payments remaining after fees for assessing and collecting the mandatory payments are deducted, shall be deposited with the municipality depository in the municipality's local provider participation fund and may be withdrawn only as provided by these rules and procedures.

(c) All deposits into the municipality's local provider participation fund shall be secured in the manner provided for securing municipal funds.

#### **Rule 8. Local Provider Participation Fund; Authorized Uses of Money.**

(a) Each municipality that collects a mandatory payment shall create a local provider participation fund.

(b) The local provider participation fund of a municipality consists of:

(1) all revenue received by the municipality attributable to mandatory payments, including any penalties and interest attributable to delinquent payments;

(2) money received from the Health and Human Services Commission as a refund of an intergovernmental transfer from the municipality to the state for the purpose of providing the nonfederal share of Medicaid supplemental payment program payments, provided that the intergovernmental transfer does not receive a federal matching payment; and

(3) the earnings of the local provider participation fund.

(c) Money deposited to the local provider participation fund may be used only to:

(1) fund intergovernmental transfers from the municipality to the state to provide the nonfederal share of a Medicaid supplemental payment program authorized under the state Medicaid plan, the Texas Healthcare Transformation and Quality Improvement Program waiver issued under Section 1115 of the federal Social Security Act (42 U.S.C. Section 1315), or a successor waiver program authorizing similar Medicaid supplemental payment programs;

(2) subsidize indigent programs;

(3) pay the administrative expenses of the municipality solely for activities under these rules and procedures;

(4) refund a portion of a mandatory payment collected in error from a paying hospital; and

(5) refund to paying hospitals the proportionate share of money received by the municipality from the Health and Human Services Commission that is not used to fund the nonfederal share of Medicaid supplemental payment program payments.

(d) Money in the local provider participation fund may not be commingled with other municipal funds.

(e) An intergovernmental transfer of funds described by Rule 8(c)(1) and any funds received by the municipality as a result of an intergovernmental transfer described by that rule may not be used by the municipality or any other entity to expand Medicaid eligibility under the Patient Protection and Affordable Care Act (Pub. L. No. 111-148) as amended by the Health Care and Education Reconciliation Act of 2010 (Pub. L. No. 111-152).

### **Mandatory Payments**

#### **Rule 9. Mandatory Payments Based on Paying Hospital Net Patient Revenue.**

(a) Except as provided by Rule 11, the governing body of a municipality that collects a mandatory payment may require an annual mandatory payment to be assessed on the net patient revenue of each institutional health care provider located in the municipality.

(b) The governing body of a municipality may provide for the mandatory payment to be assessed quarterly. Mandatory payments are typically due no later than 90 days after such payment is assessed.

(c) In the first year in which the mandatory payment is required, the mandatory payment is assessed based on the data for 2013 collected pursuant to Section 5(a). If no such data are available for an institutional health care provider, the mandatory payment may be calculated based on the institutional health care provider's Medicare cost report submitted for the 2013 fiscal year or for the closest subsequent fiscal year for which the provider submitted the Medicare cost report.

(d) The municipality shall update the amount of the mandatory payment on an annual basis.



**Rule 10. Mandatory Payment Requirements**

(a) The amount of a mandatory payment must be uniformly proportionate with the amount of net patient revenue generated by each paying hospital in the municipality.

(b) The governing body of a municipality that collects a mandatory payment shall set the amount of the mandatory payment.

(c) Subject to the maximum amount prescribed by Rule 11(a), the governing body of a municipality that collects a mandatory payment shall set the mandatory payments in amounts that in the aggregate will generate sufficient revenue to cover the administrative expenses of the municipality for activities under these rules and procedures and to fund purposes described in Rule 8(c).

(d) The annual amount of revenue from mandatory payments used for administrative expenses of the municipality for activities under these rules and procedures may not exceed the lesser of four percent of the total revenue generated from the mandatory payment or \$20,000.

**Rule 11. Mandatory Payment Prohibitions.**

(a) The amount of the mandatory payment required of each paying hospital may not exceed an amount that, when added to the amount of the mandatory payments required from all other paying hospitals in the municipality, equals an amount of revenue that exceeds six percent of the aggregate net patient revenue of all paying hospitals in the municipality.

(b) A mandatory payment may not hold harmless any institutional health care provider, as required under 42 U.S.C. Section 1396b(w).

(c) A paying hospital may not add a mandatory payment required under this section as a surcharge to a patient.

(d) If a municipality determines that administration of mandatory payments is increasing the costs of health care to the residents of the municipality, the governing body of the municipality may rescind participation in the program and refund to each paying hospital the proportionate share of any money remaining in the local provider participation fund at the time the municipality's participation is rescinded.

**Rule 12. Assessment and Collection of Mandatory Payments.**

(a) Except as provided by Rule 12(b), the municipal tax assessor-collector shall collect the mandatory payment. The municipal tax assessor-collector shall charge and deduct from mandatory payments collected for the municipality a fee for collecting the mandatory payment in an amount determined by the governing body of the municipality, not to exceed the municipal tax assessor-collector's usual and customary charges or the amount specified in Rule 10(d).

(b) The governing body of a municipality may contract for the assessment and collection of mandatory payments in the manner provided by Title 1, Tax Code, for the assessment and collection of ad valorem taxes.

(c) Revenue from a fee charged by a municipal tax assessor-collector for collecting the mandatory payment shall be deposited in the municipal general fund and, if appropriate, shall be reported as fees of the municipal tax assessor-collector.

**Rule 13. Interest and Penalties.** Any interest and penalties on mandatory payments are governed by the law applicable to municipal ad valorem taxes. Discounts applicable to municipal ad valorem taxes do not apply.

# BEAUMONT

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TEXAS

**TO:** City Council

**FROM:** Kyle Hayes, City Manager

**PREPARED BY:** Tyrone E. Cooper, City Attorney

**MEETING DATE:** July 28, 2015

**REQUESTED ACTION:** Council consider a resolution authorizing the settlement of the lawsuit styled Bob Shaw d/b/a Bob Shaw Consulting Engineers vs. City of Beaumont; Cause No. B-195,144.

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## BACKGROUND

The lawsuit styled Bob Shaw d/b/a Bob Shaw Consulting Engineers vs. City of Beaumont, Cause No. B-195,144, was presented and discussed in Executive Session held on July 21, 2015. The City Attorney is requesting authority to settle this suit in the amount of \$78,290.00.

## FUNDING SOURCE

General Liability Fund.

## RECOMMENDATION

Approval of resolution.

RESOLUTION NO.

WHEREAS, the lawsuit styled Bob Shaw d/b/a Bob Shaw Consulting Engineers vs. City of Beaumont; Cause No. B-195,144 was discussed in Executive Session properly called and held Tuesday, July 21, 2015; and,

WHEREAS, the City Attorney is requesting authority to settle this lawsuit;

NOW, THEREFORE, BE IT RESOLVED BY THE

CITY COUNCIL OF THE CITY OF BEAUMONT:

THAT the statements and findings set out in the preamble to this resolution are hereby, in all things, approved and adopted; and,

THAT the City Attorney be, and he is hereby, authorized to settle the lawsuit styled Bob Shaw d/b/a Bob Shaw Consulting Engineers vs. City of Beaumont, Cause No. B-195,144, for the sum of Seventy-Eight Thousand Two Hundred Ninety and XX/100 Dollars (\$78,290.00); and,

BE IT FURTHER RESOLVED THAT the City Manager be and he is hereby authorized to execute all necessary documents related to the settlement of the lawsuit.

PASSED BY THE CITY COUNCIL of the City of Beaumont this the 28th day of July, 2015.

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- Mayor Becky Ames -

# **BEAUMONT**

— T E X A S —

## **REGULAR MEETING OF THE CITY COUNCIL COUNCIL CHAMBERS     JULY 28, 2015     1:30 P.M.**

### **AGENDA**

#### **CALL TO ORDER**

- \* Invocation                      Pledge                      Roll Call
- \* Presentations and Recognition
- \* Public Comment: Persons may speak on scheduled agenda item No. 2/Consent Agenda
- \* Consent Agenda

#### **GENERAL BUSINESS**

1. Consider a request for a Specific Use Permit to allow a construction and agricultural equipment dealership on property zoned GC-MD (General Commercial-Multiple Family Dwelling) at 1115 Wescalden Road
2. Consider amending Section 14.04.009 (h) of the Code of Ordinances to allow the sale, consumption and possession of alcoholic beverages within city parks under certain conditions

#### **WORK SESSION**

- \* Review and discuss private warranty programs available for customer water/sewer lines

#### **COMMENTS**

- \* Councilmembers/City Manager comment on various matters
- \* Public Comment (Persons are limited to 3 minutes)

Persons with disabilities who plan to attend this meeting and who may need auxiliary aids or services are requested to contact Mitchell Normand at 880-3777 three days prior to the meeting.

**July 28, 2015**

Consider a request for a Specific Use Permit to allow a construction and agricultural equipment dealership on property zoned GC-MD (General Commercial-Multiple Family Dwelling) at 1115 Wescalden Road

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# BEAUMONT

— T E X A S —

**TO:** City Council

**FROM:** Kyle Hayes, City Manager

**PREPARED BY:** <sup>CSB</sup> Chris Boone, Planning & Community Development Director

**MEETING DATE:** July 28, 2015

**REQUESTED ACTION:** Council consider a request for a Specific Use Permit to allow a construction and agricultural equipment dealership on property zoned GC-MD (General Commercial-Multiple Family Dwelling) at 1115 Wescalder Road.

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## BACKGROUND

Barry Graves is requesting a Specific Use Permit to allow an agricultural and light construction equipment dealership at 1115 Wescalder. His plan is to renovate the existing 9200 sq. ft. building. The building is located on 3.46 acres with adequate parking and utilities. The dealership will provide new and used equipment as well as parts, service and rental.

At a Joint Public Hearing held July 20, 2015, the Planning Commission recommended 6:0 to approve a request for a Specific Use Permit to allow a construction and agricultural equipment dealership on property zoned GC-MD (General Commercial-Multiple Family Dwelling) at 1115 Wescalder Road. Subject to the following condition:

1. Install a 6' wide landscaped buffer at Wescalder between existing driveways to shield customer parking areas.

## FUNDING SOURCE

Not applicable.

## RECOMMENDATIONS

Approval subject to the following conditions:

1. Install a 6' wide landscaped buffer at Wescalder between existing driveways to shield customer parking areas.

**SPECIFIC USE PERMIT APPLICATION**  
**BEAUMONT, TEXAS**

(Chapter 28, City Codes)

TO: THE PLANNING COMMISSION AND CITY COUNCIL, CITY OF BEAUMONT, TEXAS

APPLICANT'S NAME: Barry Graves

APPLICANT'S ADDRESS: P.O. Box 160 Dayton, TX. 77535

APPLICANT'S PHONE #: 936-402-5340 FAX #: 936-258-3794

NAME OF OWNER: Barry Graves

ADDRESS OF OWNER: PO Box 160 Dayton, TX. 77535

LOCATION OF PROPERTY: 1115 Wescalder, Beaumont 77707

**LEGAL DESCRIPTION OF PROPERTY:**

LOT NO. 6-B & 6-C OR TRACT \_\_\_\_\_

BLOCK NO. 1 PLAT \_\_\_\_\_

ADDITION WESCALDER FIDELITY SURVEY \_\_\_\_\_

NUMBER OF ACRES 3.4628 NUMBER OF ACRES \_\_\_\_\_

For properties not in a recorded subdivision, submit a copy of a current survey or plat showing the properties proposed for a specific use permit, and a complete legal field note description.

PROPOSED USE: Ag and Light Construction Equip Dealership ZONE: GC-MD

☒ ATTACH A LETTER describing all processes and activities involved with the proposed uses.

☒ ATTACH A SITE PLAN drawn to scale with the information listed on the top back side of this sheet.

☒ ATTACH A REDUCED 8 1/2" X 11" PHOTOCOPY OF THE SITE PLAN.

☒ THE EIGHT CONDITIONS listed on the back side of this sheet must be met before City Council can grant a specific use permit. PLEASE ADDRESS EACH CONDITION IN DETAIL.

☒ ATTACH THE APPROPRIATE APPLICATION FEE:

LESS THAN 1/2 ACRE.....	\$250.00
1/2 ACRE OR MORE AND LESS THAN 5 ACRES.....	\$450.00
5 ACRES OR MORE.....	\$650.00

I, being the undersigned applicant, understand that all of the conditions, dimensions, building sizes, landscaping and parking areas depicted on the site plan shall be adhered to as amended and approved by City Council.

SIGNATURE OF APPLICANT: Barry Graves DATE: 6-22-2015

SIGNATURE OF OWNER: \_\_\_\_\_ (IF NOT APPLICANT) DATE: \_\_\_\_\_

PLEASE TYPE OR PRINT AND SUBMIT TO:

CITY OF BEAUMONT  
PLANNING DIVISION  
801 MAIN STREET, ROOM 201  
BEAUMONT, TX 77701

FILE NUMBER: 2235-P

DATE RECEIVED: 6/26/15

Phone - (409) 880-3764  
Fax - (409) 880-3133

\*\*\*\*\*  
PLEASE MAKE NOTE ON REVERSE SIDE OF CONDITIONS TO BE MET REGARDING THE SITE PLAN AND LETTER OF PROPOSED USES AND ACTIVITIES.



## Description letter

This permit application is for the renovation of an existing 9200 sq. ft. building located at 1115 Wescalder, Beaumont, TX. 77707. This building is located on 3.46 acres of real estate which includes existing concrete parking and utilities. This facility will house a new agriculture and light construction equipment dealership which will provide new and used equipment as well as parts, service and rental. This type business will have a positive effect on the immediate surrounding area and will not in any way create any offensive nuisances such as odor, dust or excessive noise. Once complete, the facility will have the appearance of a new, clean, well maintained business.

### ZONING ORDINANCE CONDITIONS

Renovating this building and property will have a positive effect on property values in the surrounding area. Before this property was purchased for this project, it had been vacant for many years and had become an eyesore. The city of Beaumont had placed several weed liens against the prior owner that was satisfied before closing.

This property is bordered by a cell tower on the south side, a drainage district ditch on the east side, Hwy 90 on the north side and Wescalder on the west, which will have no effect on the surrounding vacant property.

Since this facility is existing, access, utilities and drainage are in place. Utilities will have to be reconnected as part of the renovation.

Existing driveways and parking are of concrete and are adequate and will not adversely affect the general public or neighboring properties.

Odors, fumes, dust, noise or vibration will not be an issue with this type business.

The south side adjoining property has a drainage ditch and an adjacent cell tower with a tree barrier and with the location of the building, lighting will not adversely affect neighboring properties.

ORDINANCE NO.

ENTITLED AN ORDINANCE GRANTING A SPECIFIC USE PERMIT TO ALLOW A CONSTRUCTION AND AGRICULTURAL EQUIPMENT DEALERSHIP IN A GC-MD (GENERAL COMMERCIAL-MULTIPLE FAMILY DWELLING) DISTRICT AT 1115 WESCALDER ROAD IN THE CITY OF BEAUMONT, JEFFERSON COUNTY, TEXAS.

WHEREAS, Barry Graves has applied for a specific use permit to allow a construction and agricultural equipment dealership in a GC-MD (General Commercial-Multiple Family Dwelling) District at 1115 Wescalder Road, being Lots 6-B and 6-C, Block 1, Wescalder Fig Acres, Beaumont, Jefferson County, Texas, containing 4.46 acres, more or less, as shown on Exhibit "A," attached hereto; and,

WHEREAS, the Planning and Zoning Commission of the City of Beaumont considered the request and is recommending approval of a specific use permit to allow a construction and agricultural equipment dealership in a GC-MD (General Commercial-Multiple Family Dwelling) District at 1115 Wescalder Road, subject to the following condition:

- Install a 6' wide landscaped buffer at Wescalder between existing driveways to shield customer parking areas;

and,

WHEREAS, the City Council is of the opinion that the issuance of such specific use permit is in the best interest of the City of Beaumont and its citizens;

NOW, THEREFORE, BE IT ORDAINED

BY THE CITY COUNCIL OF THE CITY OF BEAUMONT:

THAT the statements and findings set out in the preamble to this ordinance are hereby, in all things, approved and adopted; and,

### Section 1.

That a specific use permit to allow a construction and agricultural equipment dealership in a GC-MD (General Commercial-Multiple Family Dwelling) District at 1115 Wescalder Road, being Lots 6-B & 6-C, Block 1, Wescalder Fig Acres, Beaumont, Jefferson County, Texas, containing 4.46 acres, more or less, as shown on Exhibit "A," is hereby granted to Barry Graves, his legal representatives, successors and assigns, as shown on Exhibit "B," attached hereto and made a part hereof for all purposes, subject to the following condition:

Install a 6' wide landscaped buffer at Wescalder between existing driveways to shield customer parking areas.

### Section 2.

That the specific use permit herein granted is expressly issued for and in accordance with each particular and detail of the site plan attached hereto as Exhibit "B" and made a part hereof for all purposes.

### Section 3.

Notwithstanding the site plan attached hereto, the use of the property herein above described shall be in all other respects subject to all of the applicable regulations contained in Chapter 28 of the Code of Ordinances of Beaumont, Texas, as amended, as well as comply with any and all federal, state and local statutes, regulations or ordinances which may apply.

PASSED BY THE CITY COUNCIL of the City of Beaumont this the 28th day of July, 2015.

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- Mayor Becky Ames -

**File 2235-P:** A request for a Specific Use Permit to allow a construction and agricultural equipment dealership on property zoned GC-MD (General Commercial- Multiple Family Dwelling).

**Location:** 1115 Wescalder Road

**Applicant:** Barry Graves

0 100 200 300 400  
Feet

N

Legend

2235P

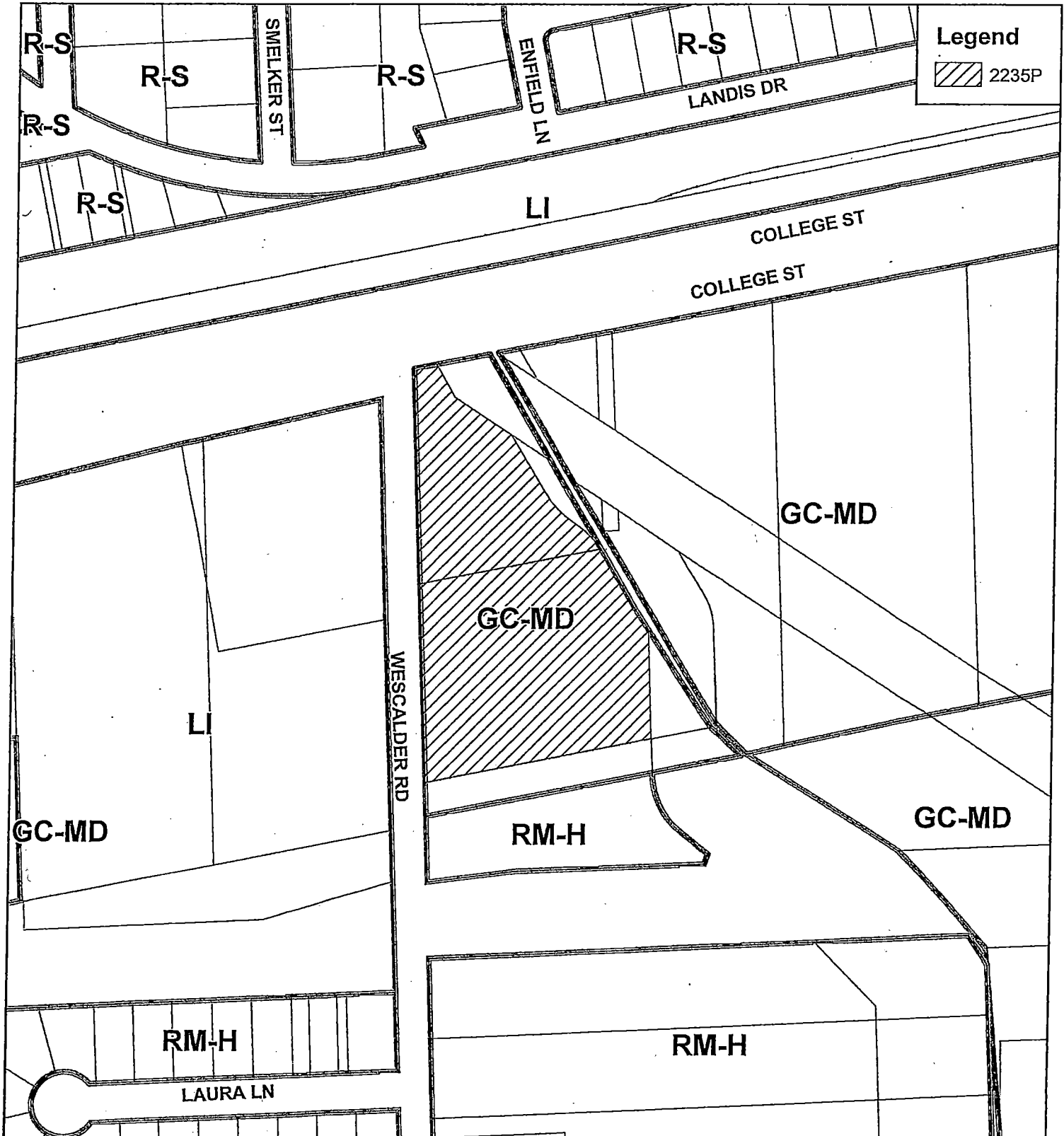
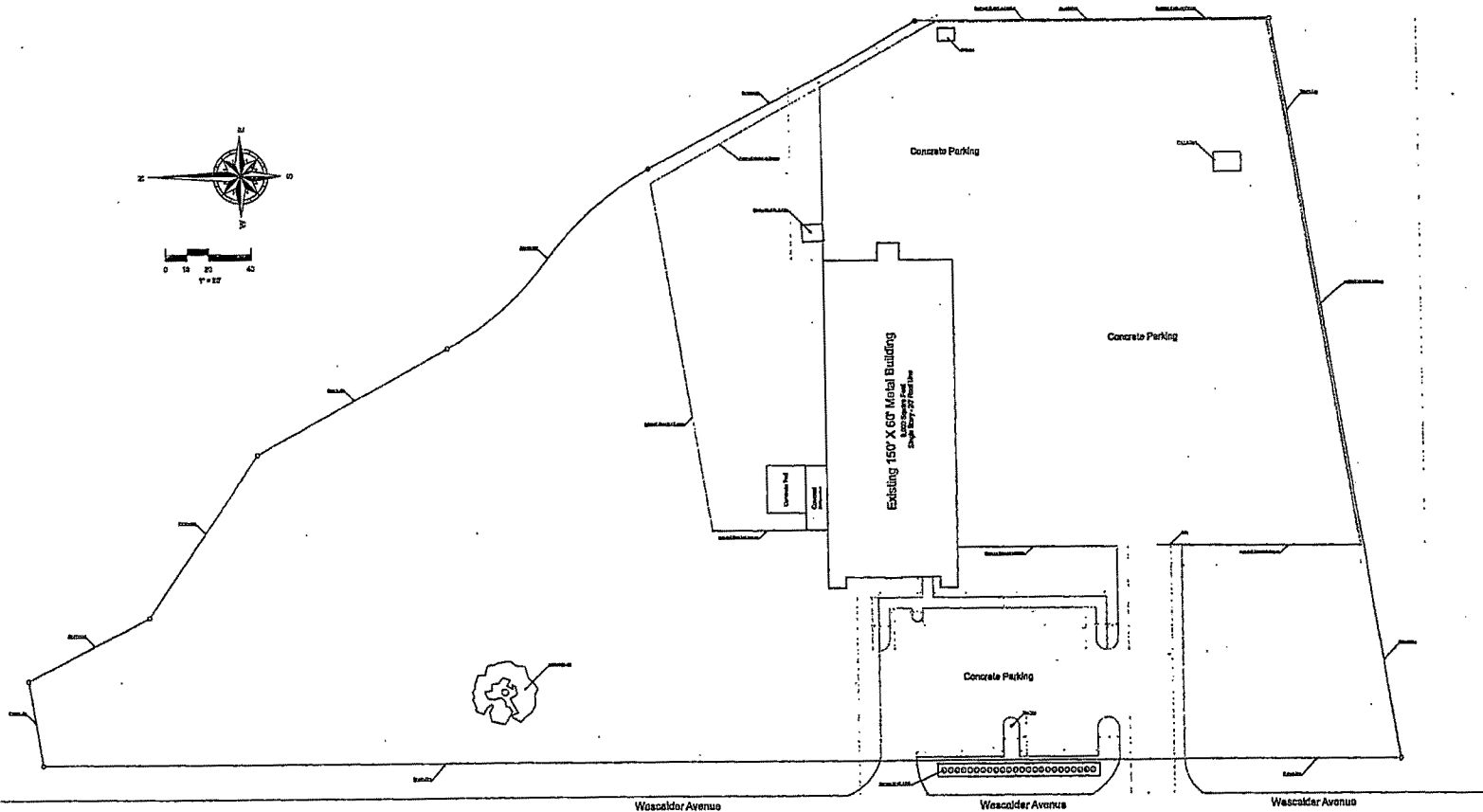


EXHIBIT "A"



B.A. Graves  
1105 Hwy. 146 South  
P.O. Box 160  
Dayton, Texas 77535  
(936) 402-5340

**SHEET DESCRIPTION:**  
Site Plan

**PROJECT:**  
TVT Beaumont  
1115 Wescalder Avenue  
Beaumont, Texas 77707  
(936) 402-5340

REVISIONS:  
None

DATE:  
06/26/15

JOB NUMBER:  
062615-1

DRAWN BY:  
JHK

CHECKED BY:  
JHK

SCALE:  
1" = 20'

SHEET:  
1 of 1

July 28, 2015

Consider amending Section 14.04.009 (h) of the Code of Ordinances to allow the sale, consumption and possession of alcoholic beverages within city parks under certain conditions

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# BEAUMONT

TEXAS

**TO:** City Council

**FROM:** Kyle Hayes, City Manager

**PREPARED BY:** Chris Jarmon, Executive Assistant to the City Manager

**MEETING DATE:** July 28, 2015

**REQUESTED ACTION:** Council consider amending section 14.04.009 (h) of the Code of Ordinances to allow the sale, consumption and possession of alcoholic beverages within city parks under certain conditions.

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## BACKGROUND

The City of Beaumont's Code of Ordinances currently allow the sale, consumption or possession of alcoholic beverages at the Henry Homberg Golf Course, but only for special functions or tournaments by groups or organizations authorized to hold these types of events, and the ordinance only allows alcohol to be possessed or consumed at Riverfront Park.

The proposed ordinance changes have two major parts: first, the ordinance would be amended to allow alcoholic beverages within all of the Henry Homberg Golf Course, including the clubhouse, regardless of whether or not a special function or tournament is being held; second, the ordinance would allow for the sale, consumption, or possession of alcoholic beverages within city parks so long as the sale is in conjunction with a city-sponsored event.

The ordinance would not allow individuals to bring their own alcoholic beverages to either the golf course or to city parks.

## FUNDING SOURCE

Not applicable.

## RECOMMENDATION

Approval of ordinance.



**Sec. 14.04.009 Behavior**

(h) Alcoholic beverages. No person shall sell, consume or possess any alcoholic beverage within any park of the city. The prohibition against sale, consumption or possession of alcoholic beverages shall not apply as follows:

(1) Within Riverfront Park so long as the sale is to, and possession and consumption is by, persons who are attending functions which are sponsored by groups or organizations and which are held in conjunction with the rental and use of facilities controlled by the Civic Center complex.

(2) ~~Within any permanent structure located at Fair Park;~~

~~(3)(2) Within the clubhouse of the Henry Homberg Golf Course; and the prohibition does not apply or on the golf course itself, pursuant to the authorized sale of alcoholic beverages by the golf course operators, for special functions or tournaments sponsored by groups or organizations authorized to be held at the Henry Homberg Golf Course.~~

(3) Within any city park, so long as the sale, consumption, and possession of alcohol is only by and/or as a result of the purchase, dispensing or being given in conjunction with a city-sponsored event.

ORDINANCE NO.

ENTITLED AN ORDINANCE AMENDING CHAPTER 14, PUBLIC WAYS AND PLACES, ARTICLE 14.04, PARKS AND RECREATION, SECTION 14.04.009(h)(2) and (3), OF THE CODE OF ORDINANCES OF BEAUMONT, TEXAS, TO ALLOW THE SALE, CONSUMPTION AND POSSESSION OF ALCOHOLIC BEVERAGES WITHIN CITY PARKS UNDER CERTAIN CONDITIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL; AND PROVIDING A PENALTY.

BE IT ORDAINED BY THE CITY OF BEAUMONT:

Section 1.

THAT Chapter 14, Article 14.04, Sections 14.04.009(h)(2) and (3), of the Code of Ordinances of the City of Beaumont, be and the same are hereby amended to read as follows:

**Sec. 14.04.009 Behavior**

(h) Alcoholic beverages. No person shall sell, consume or possess any alcoholic beverage within any park of the city. The prohibition against sale, consumption or possession of alcoholic beverages shall not apply as follows:

(2) Within the clubhouse of the Henry Homberg Golf Course or on the golf course itself, pursuant to the authorized sale of alcoholic beverages by the golf course operators;

(3) Within any city park, so long as the sale, consumption, and possession of alcohol is only by and/or as a result of the purchase, dispensing or being given in conjunction with a city-sponsored event.

Section 2.

That if any section, subsection, sentence, clause or phrase of this ordinance, or the application of same to a particular set of persons or circumstances, should for any reason be held to be invalid, such invalidity shall not affect the remaining portions of this

ordinance, and to such end, the various portions and provisions of this ordinance are declared to be severable.

Section 3.

That all ordinances or parts of ordinances in conflict herewith are repealed to the extent of the conflict only.

Section 4.

That any person who violates any provision of this ordinance shall, upon conviction, be punished as provided in Section 1.01.009 of the Code of Ordinances of the City of Beaumont, Texas.

PASSED BY THE CITY COUNCIL of the City of Beaumont this the 28th day of July, 2015.

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- Mayor Becky Ames -

# WORK SESSION

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- \* Review and discuss private warranty programs available for customer water/sewer lines